

VHAPM Part 816.5—Indefinite-Delivery Contracts
Attachment 1: Request for Exception to Fair Opportunity Memo Format

DEPARTMENT OF VETERANS AFFAIRS

Justification and Approval

For

Exception to Fair Opportunity Memo

Acquisition Plan Action ID: VA242-18-AP-6003

1. **Contracting Activity:** Department of Veterans Affairs, VISN 02, New York Harbor Healthcare System (NYHHCS), Manhattan campus, located at 423 E. 23rd Street, NY 10010. Biomedical Engineering Services of the NYHHCS, Manhattan Campus, has submitted Purchase Request Number 630-18-3-4456-0100. This is a Justification for Other Than Full and Open Competition.

2. **Description of Action:** This is a request for approval of a task order under VA NAC contract VA797H-17-D-0024 for full service maintenance coverage on three Trophon EPR System Units, currently in use at the Manhattan VA Medical Center. This procurement will be conducted in accordance with FAR Part 16. The purpose of the service agreement is to reduce service costs and improve equipment turn-around time and reliability. This will be a firm-fixed price task order contract from contract VA797H-17-D-0024, at a cost of \$5,475.00 for the base year with four option years priced at \$5,475.00 each, for a total of \$27,375.00. Per Modification P00002 to NAC contract VA797H-17-F-0024, "...individual procuring activities of the Department of Veterans Affairs are hereby delegated authority to place task orders for their respective facility, for required maintenance services at any value under this contract." Anticipated period of performance for this task order award is ~~August 1, 2018 through July 31, 2019, with the ultimate completion date of July 31, 2023.~~ September 1, 2018 through August 31, 2019 with four option years.

3. **Description of Supplies or Services:** The Manhattan VA Medical Center requires that the Contractor shall provide all personnel, equipment, tools, vehicles, materials, supervision, and other items and services necessary to perform preventive maintenance inspection and repairs on three Trophon EPR System units. The purpose of the service agreement is to reduce service costs and improve equipment turn-around time and reliability. This will be a firm-fixed price task order contract from contract VA797H-17-D-0024 with the VA National Acquisition Center, at a cost of \$27,375.00 for the anticipated period of performance of ~~August 1, 2018 through July 31, 2019~~ with four option years.
September 1, 2018 through August 31, 2019

4. **Statutory Authority:** The statutory authority permitting an exception to fair opportunity is Section 41 U.S.C. 4106(c) as implemented by the Federal Acquisition Regulation (FAR) Subpart 16.505 Subpart 16.505(b)(2)(i):

() FAR Subpart 16.505(b)(2)(i)(A): The agency need for the supplies or services is so urgent that providing a fair opportunity would result in unacceptable delays.

() FAR Subpart 16.505(b)(2)(i)(B): Only one awardee is capable of providing the supplies or services required at the level of quality required because the supplies or services ordered are unique or highly specialized.

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(X) FAR Subpart 16.505(b)(2)(i)(C): The order must be issued on a sole-source basis in the interest of economy and efficiency because it is a logical follow-on to an order already issued under the contract, provided that all awardees were given a fair opportunity to be considered for the original order.

() FAR Subpart 16.505(b)(2)(i)(D): It is necessary to place an order to satisfy a minimum guarantee.

() FAR Subpart 16.505(b)(2)(i)(E): For orders exceeding the simplified acquisition threshold, a statute expressly authorizes or requires that the purchase be made from a specified source". The statutory authority permitting an exception to fair opportunity for this action is 38 U.S.C. 8127(c), known as the Veterans First Contracting Program which provides the authority to directly contract with a Service-Disabled Veteran-Owned Small Business (SDVOSB) or a Veteran-Owned Small Business (VOSB).

() FAR Subpart 16.505(b)(2)(i)(F) In accordance with section 1331 of Public Law 111-240 (15 U.S.C. 644(r)), contracting officers may, at their discretion, set aside orders for any of the small business concerns identified in 19.000(a)(3). When setting aside orders for small business concerns, the specific small business program eligibility requirements identified in part 19 apply.

5. Rationale Supporting Use of Authority Cited Above: This order is placed to minimize the inefficiencies or additional costs that would result from introducing multiple maintenance, operations, training network management, or support systems. Contract VA797H-17-D-0024 is a national contract for all VA activities to utilize as a streamlined contract source that satisfies FAR 8.004 in the Standard Priorities of Use of Government Supply Sources. Although not mandatory, this source has priority over open market sources.

6. Efforts to Obtain Competition: Sources Sought Notice 36C24218Q9180 was posted to FedBizOpps (FBO) on 5/18/2018 with a closing date of 5/23/2018, and resulted in no responses. Further market research on FBO indicated that VA activities mostly awarded contracts of this nature to General Electric Company (GE) and one to Nanosonics. Emails were sent to both firms on May 24, 2018. Nanosonics confirmed that they are the manufacturer and referred the inquiry to Endoscopy MD, INC., a Woman-Owned Small Business (WOSB). GE responded with information regarding the recently expired contract action for this requirement and provided information on the VA NAC Contract VA797H-17-D-0024. This national strategic contract is a streamlined IDIQ contract that is intended for VA activities.

7. Actions to Increase Competition: The Government will continue to conduct market research to ascertain if there are changes in the market place that would enable future actions to be competed.

8. Market Research: Sources Sought Notice 36C24218Q9180 was posted to FedBizOpps (FBO) on 5/18/2018 with a closing date of 5/23/2018, and resulted in no responses. Further market research on FBO indicated that VA activities mostly awarded contracts of this nature to General Electric Company (GE) and one to Nanosonics. Emails were sent to both firms on May 24, 2018. Nanosonics confirmed that they are the manufacturer and referred the inquiry to Endoscopy MD, INC., a Woman-Owned Small Business (WOSB). GE responded with information regarding the recently expired contract action for this

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requirement and provided information on the VA NAC Contract VA797H-17-D-0024. This national strategic contract is a streamlined IDIQ contract that is intended for VA activities.

9. **Other Facts:** This contract is in support of the VA-DoD Direct Sharing Agreement with the Defense Logistics Agency (DLA) with contract SPE2D1-17-D-0015. The use of this contract, after first considering mandatory sources, is strongly encouraged by the NAC.

10. **Technical and Requirements Certification:** I certify that the supporting data under my cognizance, which are included in this justification, are accurate and complete to the best of my knowledge and belief.

[Redacted Signature]

Date

NYHHCS

11. **Determination that Anticipated Cost is Fair and Reasonable:** A determination by the contracting officer that the anticipated cost to the Government will be fair and reasonable: Individual VA procuring activities are to obtain pricing and maintenance information for a specific contract holder from the VA NAC at ammhindscp@va.gov.

12. **Contracting Officer's Certification (required):** I certify that the foregoing justification is accurate and complete to the best of my knowledge and belief.

[Redacted Signature]

Date

Contracting Officer
Network Contracting Office 2

No other signatures are required.